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Kerrey and the CIA

BY DOUGLAS VALENTINE

By now everybody knows that former Senator Bob Kerrey led a seven-member team of Navy Seals into Thanh Phong village in February 1969, and murdered more than a dozen women and children, maybe as many as twenty-one.

What fewer people know, and what no one in the press is talking about (although some of them know), is that Kerrey was on a CIA mission, and its specific purpose was to kill those women and children. It was illegal, premeditated mass murder and it was a war crime.

And it's time to hold the CIA responsible. The only war crime tribunal that ever probed what the US did in Vietnam was one convened by Bertrand Russell in the late 1960s while the war was raging. Amid furious derision from the US government and the hostile indifference of the US press that tribunal took testimony from Vietnamese on precisely the operations of which Kerrey was a part. It's time for a war crimes tribunal to examine the CIA's illegal activities during and since the Vietnam war.

War crimes were a central part of the CIA strategy for fighting the Vietnam war. The strategy was known as Contre Coup, the CIA's response to the realization that the Communists were winning the war for the hearts and minds of the people. It also was a response to the belief that they were winning through the use of psychological warfare, specifically, selective terror – the murder of specific government officials.

In December 1963 Peer DeSilva arrived in Saigon as the CIA's station chief. He claims to have been shocked by what he saw. In his autobiography, SubRosa, DeSilva wrote: "The Vietcong were monstrous in the application of torture and murder to achieve the political and psychological impact they wanted." Thus morally bolstered, DeSilva authorized the creation of small "counter-terror teams", designed "to bring danger and death to the Vietcong functionaries themselves, especially in areas where they felt secure."

Thanh Phong village was one of those areas where National Liberation Front cadres ("Viet Cong" in US parlance) felt secure. It was located in Kien Hoa Province, along the Mekong Delta. One of Vietnam's most densely populated provinces, crisscrossed with waterways and rice paddies, Kien Hoa was precariously close to Saigon. It was an important rice production area for the insurgents as well as the Government of Vietnam. The CIA estimated there to be 4,700 NLF cadres in Kien Hoa. Operation Speedy Express, a Ninth Infantry sweep through Kien Hoa in the first six months of 1969, killed an estimated 11,000 civilians—supposedly "VC sympathizers".

These people formed what the CIA called the "Vietcong Infrastructure" or VCI. The "VCI" consisted of members of the People's Revolutionary Party, the National Liberation Front, and other Communist outfits like the Women's and Student's Liberation Associations. Its members were politicians and administrators managing committees for business, communications, security, intelligence, and military affairs. Among their functions were the collection of taxes, and the recruitment of young men and women into the insurgency. But the main point is: these people were civilians.

As the CIA was well aware, Ho Chi Minh boasted that with two cadres in every hamlet, he could win the war, no matter how many soldiers the Americans threw at him. The object of Contre Coup was to terrorize

(**Kerrey** continued on page 4)

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Our Little Secrets

New Dees Scam

These days Morris Dees and his cohorts at the Southern Poverty Law Center can be seen hitting the talk shows to defend their friends in the FBI, glossing over the feds' trampling of McVeigh's constitutional rights. Dees dismisses the FBI's suppression of 3,000 pages of evidence in the case as a trivial mistake. This is no surprise. The Southern Poverty Law Center has functioned as a kind of non-profit snitching outfit, funneling information on political dissidents to the FBI and other law enforcement agencies for years. Since CounterPunch exposed Dees's operation as a vicious fraud five years ago the endowment of the Southern Poverty Law Center has now swollen to over $105 million, with which staggering sum Dees and his team do pathetically little. As JoAnn Wypijewski recently described, the Center even refused to donate any money to the transport coalition' union in Montgomery, trying to restore an essentai civil right (the ability to get around) to poor people.

Dees now says he opposes the death penalty. But there may well be an ulterior motive here. With McVeigh dead, the vestigal remnants of the KKK scattered to the winds and the Militia Movement shriveled away to nothing, how will Dees and the SPLC continue to do what they do best: fearmonger and fundraise? Obviously, McVeigh is worth more to the SPLC alive.

Dees has begun trawling the waters for other threats to domestic tranquillity. As CounterPunch reported last year, Dees' outfit has now begun to issue "intelligence" dossiers on the new left. His report on the anti-globalization movement warned that the protest groups that assembled in Seattle constituted a dangerous new cadre of homegrown anti-government terrorists, so-called Third Positionists, who were Leftists, racists and Anarchists. A strange melange to say the least.

Now the Dees crowd is targeting radical environmental organizations, such as Earth First!, Earth Liberation Front and the Animal Liberation Front. In the spring issue of the Intelligence Report, the SPLC house organ, Dees' associate, Mark Potok, who asserts that "the radical right admires the ELF…rightwing extremists like the look of those involved in eco- and animal rights terrorism." Quick, someone tell Ron Arnold! Last time we listened, Ron, who leads the indubitably right-wing Wise Use Movement, wasn't bellowing his admiration for the Elves.

Potok even suggests that ELF learned its tactical lessons from "ex-Klansman Louis Beam's concept of 'leaderless resistance'". He blares that ELF may have other ties to Nazis and cites an unidentified email which proclaims "the worst abuses of animals are almost always done by mud peoples. Hitler and Wagner were both vegetarians."

As is so often the case, SPLC mailshots seem geared to scare elderly Jewish people into rushing checks to the Dees machine. Thus a typical Dees alert usually includes not only references to Nazis and the KKK, but also Arabs. This one is no different. Potok claims to have uncovered a message posted to a "deep ecology" Internet group which details a plan to "ask the governments of Iraq, Iran and Libya for a million dollars or so to help harass the US…or to offer a prize to the high school student who comes up with the best plan to bring about the destruction of civilization without seriously harming the biosphere."

A Nasty Way To Go

So T. McVeigh gets a short-term renewal of his lease on life, maybe a long one. The Bureau never lets us down. Lethal injection has been sold as just about the most soothing way to go. Not so: like many a Benthamite vision of Progress, it has serious flaws, and its central characteristic is that although offering unbearable agony to the condemned person, it appears tranquil and painless to the onlookers.

Edward Brunner, M.D., Ph.D., is the Eckenhoff professor and chairman emeritus of anesthesia at Northwestern University Medical School and at Northwestern Memorial Hospital. He gave a chilling interview to Caharles Madigan of the Chicago Tribune, published May 6, in which he described how lethal injection, as administered in death chambers across the country by non-medical personnel, actually works.

"The thiopental will cause the patient to look like he is falling asleep. The second drug will paralyze him. If the drugs are not given properly, the sleep drug can wear off, allowing the patient to be aware but unable to move, even to breathe. He undergoes suffocation and asphyxiation in a horribly painful way, even though he looks completely calm as he is lying on the table. Then he experiences that deep burning sensation as the potassium courses through his veins on the way to his heart."

Brunner says that in about 40 percent of cases where lethal injection has been used, there has been misuse in one way or another, and it has taken as long as 45 minutes for the person to die. "The chemistry of the drugs is such that thiopental and succinylcholine, when they react to each other, cause a precipitation of a white, flaky substance that will block up the needle from the IV. What has happened in a number of cases is that they give the thiopental and follow with the succinylcholine, then they get this precipitate which blocks the needle. The thiopental wears off. The patient is partly paralyzed and partly not, and begins to move around. In a number of circumstances, they have to close the curtains so that people can't see the struggling. Sometimes they have to start all over again."

Since no doctor will perform these injections, the job goes to people who are untrained and who have no business us-

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Lethal Injection: "What they are really doing is experimenting on humans, much like the German doctors did in concentration camps."

ing these drugs. "Thiopental is a controlled substance. To use it you need a special license, which the executioner doesn't have and the warden doesn't have. So they are in violation of federal and state regulations when they use these things. More than that, the drugs have been tested for safety in therapeutic uses. They have never been tested for use in killing people. What they are really doing is experimenting on humans, much like the German doctors did in concentration camps. What they are doing is inhumane. The subjects end up with a strong possibility of being subjected to excruciating suffering."

Probably many Americans including those "survivors" and relatives in Oklahoma City looking for "closure" will say that "excruciating suffering", ie cruel and unusual punishment, is exactly what McVeigh deserves. But that, at the moment, is not the name of the game.

REDFORD SNOOTS NORTON

Now Robert Redford has given Interior Secretary Gail Norton the cold shoulder. Last week Norton sent an invitation to the movie star in his eyrie at Sundance in the Wasatch Mountains southeast of Salt Lake City, asking if he would care to present at the release of a condor raised in captivity. Norton added that "you and I have never met, but we do have a common interest" in condors, and that she had fond memories of Redford's movie "Three Days of the Condor". Norton added that in such a meeting they could discuss "the best ways to conserve America's unspoilt ladscapes and the wild creatures who inhabit them."

Redford sent back a snotty note to Norton saying that he was "mystified" by the invite, and that "sadly, since assuming the Interior Secretary post, you have compiled an abysmal record of capitulating to big businesses at the expense of the nation's public health, public lands and wildlife."

Now, when it comes to preserving nature's domain Norton is nothing much to write home about, but neither is Redford. Indeed, you can forgive the Interior Secretary for thinking there might have been a soft spot in Redford's heart for her, considering what he has been ready to sanction and condone in recent years.

After all, it was Redford who attacked Ralph Nader late last year for the latter's denunciations of the Clinton-Gore environmental record. Redford was a big presence in Oregon in the last week of the presidential campaign, targeting potential Nader voters in recorded phone messages. The gist of Redford's appeal was that Naderites were too purist, and that Gore was the man to vote for. In other words Redford was ready to condone eight years of a Democratic government trashing the national forests, of giving the go-ahead to mining companies, and even of sabotaging the Endangered Species Act which, among other functions, has helped save the condor from extinction.

It should also be noted that while Redford and others have slammed the Bush administration for rescinding the Clinton team's last-minute booby trap on arsenic regs in western states, Redford and many other Democrats were silent on this matter for the eight years that the Clinton administration did nothing about this supposed arsenic peril.

Redford, it should also be recalled, was party to a bid to destroy the Blackfoot river, immortalized in Norman McLean's novella, A River Runs Through It, later filmed by Redford. In the mid-1990s he campaigned for Senator Max Baucus of Montana. The Baucus family, which owns one of the largest ranches in the state, was at that time standing to rake in millions from their interest in the mining rights to a property bordering the Blackfoot scheduled for gold mining by the so-called "heap leach" cyanide method, lethal to all living things. The plans of this mining company also including the levelling of an adjacent mountain revered by Ted Kaczynski, aka the Unabomber. Noting the threat, Kaczynski took an increasing interest in environmental matters, in whose cause he devised his own drastic strategies.

Redford chides Norton for the Bush administration's failure to intervene in California's energy crisis, which reminds us of Redford's own culpability in this respect. After all, Redford is on the board of the Natural Resources Defense Council. NRDC was a leading player in the drive to deregulate California's electric utilities. Ralph Cavanagh was NRDC's point man in this area and NRDC provided green cover for PG&E as well as Socal Edison (run by NRDC cofounder John Bryson) as they set about their deregulatory agenda.

Among Redford's criticisms of Norton was the jibe that the release of the condor was a mere publicity stunt designed to camouflage the overall predatory policies of the Bush administration. We should note that Redford's friend Bruce Babbitt, Norton's predecessor at Interior, was no stranger to publicity stunts, and in fact himself posed with condors as well as wolves. Babbitt released condors in California's coastal range at the very time the Clinton administration was proposing to allow the Navy to practise bombing runs over Big Sur.

Such unpalatable facts about Redford's green record, set against the equally unpalatable facts of the Bush administration's green policies remind us yet again of why many greens did indeed see a vote for the Nader ticket in 2000 as the only possible option. Redford's letter is a useful reminder.

THIGHS MATTER

The FCC proposed a $7,000 fine against noncommercial KBOO-FM/Portland, OR for broadcasting the rap song "Your Revolution", which the commission says contains "unmistakable, patently offensive sexual references". KBOO counters that its mission is to provide a forum for "unpopular, controversial, neglected perspectives," and that "Your Revolution" is "a feminist attack on attempts to equate political revolution with promiscuous sex" - the opening lyric is, "Your revolution will not happen between these thighs" - and thus is not indecent. The FCC rejected that argument and has given KBOO 30 days to respond. CP

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(**Kerrey** continued from page 1)

(ie, usually exterminate) each and every individual member of the "VCI" and their family, friends and fellow villagers. To this end the CIA in 1964 launched a huge intelligence operation called the Provincial Interrogation Center Program. Employing the US company Pacific Architects and Engineers, the Agency built an interrogation center in each of South Vietnam's 44 provinces. Staffed by members of the Special Police, who ran extensive informant networks, and advised by CIA officers, the purpose of the PICs was to identify, through the systematic "interrogation" (read torture) of "VCI" suspects, the membership of the NLF at every level of its organization; from its elusive headquarters somewhere along the Cambodian border, through the region, city, province, district, village and hamlet committees.

The "indispensable link" in the "VCI" was the District Party Secretary – the same individual Bob Kerrey's Seal team was out to assassinate in its mission in Thanh Phong in February of 1969.

Initially the CIA had trouble finding people who were willing to murder and mutilate, so the Agency's original "counter-terror teams" were composed of ex-convicts, VC defectors, Chinese Nungs, Cambodians, Montagnards, and mercenaries.

The other big problem was security. The NLF had infiltrated nearly every facet of the government of South Vietnam's operations — even the CIA's unilateral counter-terror program. So, in an attempt to bring greater effectiveness to its secret war, the CIA started employing Navy Seals, US Army Special Forces, Force Recon Marines, and other carefully trained Americans who, like Bob Kerrey, were "motivationally indoctrinated" by the military and turned into killing machines.

In his autobiography Soldier, Anthony Herbert describes arriving in Saigon in 1965, reporting to the CIA's Special Operations Group, and being asked to join a top-secret psywar program. What the CIA wanted Herbert to do "was to take charge of execution teams that wiped out entire families". Herbert was later set up by the Pentagon with the active assistance of CBS's Mike Wallace and 60 Minutes.

By 1967, the slaughter of entire families had become integral to the CIA's counter-terror program. Robert Slater was the chief of the CIA's Province Interrogation Center Program from June 1967 through 1969. In a March 1970 thesis for the Defense Intelligence School, titled "The History, Organization and Modus Operandi of the Viet Cong Infrastructure" Slater wrote, "the District Party Secretary usually does not sleep in the same house or even hamlet where his family live, to preclude any injury to his family during assassination attempts."

But, Slater added, "the Allies have frequently found out where the District Party Secretaries live and raid their homes: in an ensuing fire fight the secretary's wife and children have been killed and injured."

This is the context in which the Kerrey atrocity took place. This CIA strategy of committing war crimes for psychological reasons – to terrorize the enemy's supporters into submission – also is what differentiates Kerrey's atrocity, in legal terms, from other popular methods of mass murdering civilians, such as bombs from the sky, or economic boycotts.

When you're waging illegal warfare, language is every bit as important as weaponry and the will to kill. Half the court-of-public-opinion battle is making it sound legal.

The slaughter of families was integral to the CIA's counter-terror program.

Three Old Vietnam Hands in particular stand out as examples of CIA victories in this battle. Neil Sheehan, CIA-nik and author of the aptly titled Bright Shining Lie, recently confessed that in 1966 he saw US soldiers massacre as many as 600 Vietnamese civilians in five fishing villages. He'd been in Vietnam for three years by then, but it didn't occur to him that he had discovered a war crime. Now he realizes that the war crimes issue was always present, but still makes no mention of his friends in the CIA.

David Halberstam, a former New York Times reporter and author of The Best and The Brightest, defended Kerrey on behalf of the media establishment at the New School campus the week after the story broke. Halberstam described the region around Thanh Phong as "the purest bandit country," adding that "by 1969 everyone who lived there would have been third-generation Vietcong"—pure CIA apologetics.

Finally there's New York Times reporter James LeMoyne. Why did he never write any articles linking the CIA to war crimes in Vietnam? Maybe because his brother Charles was in charge of the CIA's counter-terror teams in the Delta in 1968.

The CIA launched its Phoenix Program in June 1967, after 13 years of tinkering with several experimental counter-terror and psywar programs, and building its network of secret interrogation centers. The stated policy was to replace the bludgeon of indiscriminate bombings and military search-and-destroy operations, which had alienated the people from the Government of Vietnam, with the scalpel of assassinations of selected members of the NLF.

A typical Phoenix operation began in a Province Interrogation Center where a suspected member of the "VCI" was brought for questioning. After a few days or weeks or months suffering various forms of torture, the suspect would die or give the name and location of comrades and superiors and then be killed. That information would be sent from the Interrogation Center to the local Phoenix office, which was staffed by Special Branch and Vietnamese military officers under the supervision of CIA officers. Depending on the suspected importance of the targeted component of the "VCI", the Phoenix people would then dispatch one of the various action arms available to it, including Seal teams like the one Bob Kerrey led into Thanh Phong.

In February 1969, the Phoenix Program was still under CIA control. But because Kien Hoa Province was so important, and because the NLF's District Party Secretary was supposedly in Thanh Phong, the CIA decided to handle this particular assassination and mass murder mission without involving the local Vietnamese. So instead of dispensing the local counter-terror team, the CIA sent Kerrey's Raiders.

And that, very simply, is how it happened. Kerrey and crew went to Thanh Phong to kill the District Party Secretary, and anyone else around, including his family and all their friends.

By 1969 the CIA, through Phoenix, was targeting individual members of the "VCI" and their families all across Vietnam. Over 20,000 people were assassinated by the end of the year and hundreds of thousands had been tortured in Province Interrogation Centers.

On June 20, 1969, the Lower House of the Vietnamese Congress held hearings about abuses in the Phoenix VCI elimination program. Eighty-six Deputies signed a petition calling for its immediate termination. Among the charges: Special Police knowingly arrested innocent people for the purpose of extortion; people were detained for

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Over 20,000 people were assassinated by the end of 1969 and hundreds of thousands had been tortured in Province Interrogation Centers.

as long as eight months before being tried; torture was commonplace. Noting that it was illegal to do so, several deputies protested instances in which American troops detained or murdered suspects without Vietnamese authority. Others complained that village chiefs were not consulted before raids, such as the one on Thanh Phong.

After an investigation in 1970, four members of the US Congress concluded that the CIA's Phoenix Program violated international law. "The people of these United States", they jointly stated, "have deliberately imposed upon the Vietnamese people a system of justice which admittedly denies due process of law", and that in doing so, "we appear to have violated the 1949 Geneva Convention for the protection of civilian people."

But the American establishment and media denied it then, and continue to deny it until today, because Phoenix was an extirmination program — and the CIA officials, members of the media who were complicit through their silence, and the American boys who carried it out, are all war criminals. As Michael Ratner a lawyer at the Center for Constitutional Rights tells CounterPunch: "Kerrey should be tried as a war criminal. His actions on the night of February 24-25, 1969 when the seven man Navy Seal unit which he headed killed approximately twenty unarmed Vietnamese civilians, eighteen of whom were women and children was a war crime. Like those who murdered at My Lai, he too should be brought into the dock and tried for his crimes."

Incredibly, Phoenix has become fashionable. It has acquired a kind of political cachet. Governor Jesse Ventura claims to have been a Navy Seal and to have "hunted man". David Hackworth defended Kerrey by saying "there were thousands of such atrocities" and that in 1969 his own unit committed "at least a dozen such horrors". Jack Valenti, representing the business establishment and its financial stake in the issue, similarly defended Kerrey in the LA Times, saying, "all the normalities [sic] of a social contract are abandoned," in war.

Not everyone saw it thus.

A notorious Phoenix operation, known as the My Lai Massacre, was proceeding along smoothly, with a grand total of 504 Vietnamese women and children killed, when a soldier named Hugh Thompson in a helicopter gunship saw what was happening. Risking his life to preserve that "social contract", Thomson landed his helicopter between the mass murderers and their victims, turned his machine guns on his fellow Americans, and brought the carnage to a halt.

The late Ron Ridenhour, a member of a US Army long distance recon unit in Vietnam, found out about My Lai from participants, and on his own initiative, at great risk to himself, undertook a secret investigation while on active duty and eventually exposed My Lai to the world. If Thompson and Ridenhour were capable of taking individual responsibility, everyone is. And many did.

There is no doubt that Bob Kerrey committed a war crime. As he admits, he went to Vietnam with a knife clenched between his teeth and did what he was trained to do – kidnap, assassinate and murder civilians. Later he became a conflicted individual. He remembers that they killed women and children. But he claims to remember that his unit came under fire first, before they panicked and started shooting back. War and guilt clouds his memory

But there isn't that much to forget. Thanh Phong was Kerrey's first mission, and on his second mission a grenade blew off his foot, abruptly ending his military career.

There are plenty of other people to remind Kerrey and the world of what happened. There's Gerhard Klann, the Seal who contradicts Kerrey, and two Vietnamese survivors of the raid, Pham Tri Lanh and Bui Thi Luam, both of whom corroborate Klann's account, as does a veteran NLF cadre, Tran Van Rung.

As CBS News was zealous to point out, these Vietnamese are former members of the NLF and thus "hostile" witnesses. Because there were slight inconsistencies in their stories, they could not be believed. Klann became the target of Kerrey's pr machine, dismissed as an alcoholic with a chip on his shoulder.

Then there is John DeCamp. An army captain in Vietnam, DeCamp worked for the organization, under CIA executive William Colby, that ostensibly managed Phoenix after the CIA let it go in June 1969. DeCamp suggests Kerrey may have been fragged by his fellow Seals in the operation for which he accepted the Medal of Honor from Nixon ten days after the killings at Kent State.

Kerrey says his actions at Than Phong were an atrocity, but not a war crime. He says he feels remorse, but not guilt. In fact, he has continually rehabbed his position on the war itself—moving from an opponent to an enthusiast. In a 1999 column in the Washington Post, for example, Kerrey said he had come to view that Vietnam was a "just war".

Then at the Democratic Party Convention in Los Angeles last summer Kerrey lectured the delegates that they shouldn't be ashamed of the war and that they should treat Vietnam veterans as war heroes: "I believe I speak for Max Baucus and every person who has ever served when I say I never felt more free than when I wore the uniform of our country. This country - this party - must remember." Free? Free to murder women and children. Is this a consciousness of guilt or a quest for immunity?

Average Americans, however, consider themselves a nation ruled by laws and an ethic of fair play, and with the Kerrey confession comes an opportunity for America

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to redefine itself in more realistic terms. The discrepancies in Kerrey's story beg investigation. He says he was never briefed on the rules of engagement. But a "pocket card" with the Laws of Land Warfare was given to each member of the US Armed Forces in Vietnam. A friend of CounterPunch who served in Vietnam in the US Marine Corps notes that "Kerry said no one ever taught him about the Law of War. That is baloney. We went over the Geneva Convention like a catechism or like Miranda, partly to protect us if we were captured but also because we were fighting in the midst of civilians."

Does it matter that Kerrey would lie about this? Yes. General Bruce Palmer, commander of the same Ninth Division that devastated Kien Koa Province in 1969, objected to the "involuntary assignment" of American soldiers to Phoenix. He did not believe that "people in uniform, who are pledged to abide by the Geneva Conventions, should be put in the position of having to break those laws of warfare".

Kerrey even uses the same rationale offered by CIA officer DeSilva. According to Kerrey, "the Viet Cong were a thousand per cent more ruthless than" the Seals or U.S. Army. But the Geneva Conventions, customary international law and the Uniform Code of Military Justice all prohibit the killing of noncombatant civilians. The alleged brutality of others is no justification.

According to human rights lawyer Michael Ratner the legal avenues for bringing Kerrey and his cohorts to justice are limited. A civil suit could be lodged against Kerrey by the families of the victims, brought in the United States under the Alien Tort Claims Act. "These are the kinds of cases I did against Gramajo (Guatemala) and Pangaitan (Timor)," Ratner tells us. "The main problem here is that it is doubtful the Vietnamese would sue when they are desperate to improve relations with the US. I would do this case if we could get plaintiffs — so far no luck." According to Ratner, there is no statute of limitations problem. The Kerrey killings constitute newly discovered evidence and there is a strong argument, particularly in the criminal context, that there is no statute of limitations for war crimes.

But criminal cases in the US present a difficult, if not impossible, prospect. Now that Kerrey is discharged from the Navy, the military courts, which prosecuted Lt. Calley for the My Lai massacre, have no jurisdiction over him. "As to a criminal case in the US — my answer is no," says Ratner. "The US first passed a war crimes statute (18 USC sec. 2441 War Crimes) in 1996. That statute makes what Kerrey did a war crime punishable by death or life imprisonment. But it was passed after the crime and criminal statutes are not retroactive." In 1988, Congress enacted a statute against genocide, which might apply to Kerrey's actions, but it can't be applied retroactively. At the time of Kerrey's acts in Vietnam, US criminal law did not extend to what US citizens did overseas unless they were military.

When he was a senator, Kerrey, it should be noted, voted for the war crimes law, thus opening the opportunity for others to be prosecuted for crimes similar to those he that committed, though he himself is protected.

The United Nations could establish an ad hoc tribunal such as it did with the Rwanda ICTR and Yugoslavia ICTY. "This would require action by the UN Security Council, but what are the chances?" says Ratner. "There is still the prospect for a US veto, which underscores how those tribunals are bent toward what the US and West want."

Prosecution in Vietnam or another country and extradition are also a possibilities. It can be argued that war crimes are crimes over which there is universal jurisdiction. In fact that is the obligation of countries under the Geneva Convention of 1948—to seek out and prosecute war criminals. "Universal jurisdiction does not require the presence of the defendants. They can be indicted and tried in some countries in absentia--or their extradition can be requested", says Ratner. "Some countries may have statutes permitting this. Kerrey should check his travel plans and hire a good lawyer before he gets on a plane. He can use Kissinger's lawyer." CP

"Kerrey should check his travel plans and hire a good lawyer before he gets on a plane."

Douglas Valentine is author of The Phoenix Program, the best book on the CIA's assassination and torture operation.

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What Were Kerrey's Orders? Here's the Full Story

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